APPENDIX A

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

FREDERIC WAYNE ETCHEVERRY,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.

No. 18,465
July 11, 1963

On Appeal from the United States District Court
for the Southern District of California
Central Division

Before: BARNES, MERRILL and BROWNING, Circuit Judges

BROWNING, Circuit Judge:

The only issues raised by appellant on this appeal from his conviction of violating the Universal Military Training and Service Act, 50 App. U.S.C.A. § 462, concern the constitutionality of the Act. The issues have been resolved against appellant by prior decisions of this Court, binding upon us.

Appellant asserts that peacetime conscription is beyond the power conferred upon Congress by Article I, Section 8 of the Constitution, and that it deprives appellant of his liberty in violation of the Fifth Amendment; appellant distinguishes *Arver v. United States*, 245 U.S. 366 (1918), and cases which follow it, as applicable only to a draft in time of war. This Court sustained the constitutionality of peace-

time conscription in *Richter v. United States*, 181 F.2d 591 (9th Cir. 1950).

Appellant asserts that the provisions of the Universal Military Training and Service Act relating to conscientious objectors (50 App. U.S.C.A. § 456 (j)) violate the First Amendment, in that they are laws "respecting an establishment of religion," and that they discriminate against those who do not believe in a Supreme Being. This Court has held to the contrary. *Clark v. United States*, 236 F.2d 13 (9th Cir. 1956); *George v. United States*, 196 F.2d 445 (9th Cir. 1952).

Affirmed.

(Endorsed) Opinion Filed July 11, 1963.
Frank H. Schmid, Clerk.

APPENDIX B

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

FREDERICK WAYNE ETCHEVERRY,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee

No. 18,465

Judgment

APPEAL from the United States District Court for the Southern District of California, Central Division.

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the Southern District of California, Central Division, and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this Cause be, and hereby is affirmed.

Filed and entered July 11, 1963.

APPENDIX C

SUPREME COURT OF THE UNITED STATES

No. , October Term, 1963

FREDERIC WAYNE ETCHEVERRY,
Petitioner,

vs

UNITED STATES

Order Extending Time to File Petition for Writ of Certiorari

UPON CONSIDERATION of the application of counsel for petitioner,

IT IS ORDERED that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby extended to and including September 9, 1963.

(S) BYRON R. WHITE
Associate Justice of the Supreme Court of the United States.

Dated this 31st day of July, 1963.